



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,531	06/20/2001	Trevor Petruk	5150-52400	6393

35690 7590 01/25/2005

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER

VU, KIEU D

ART UNIT	PAPER NUMBER
----------	--------------

2173

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/886,531

Applicant(s)

PETRUK ET AL.

Examiner

Kieu D Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-34 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald et al ("McDonald", USP 5966532).

Regarding claims 1 and 21, McDonald teaches a method or memory medium for creating a graphical program (col 5, lines 6-12), comprising displaying information indicating a plurality of program processes (process of inputting to or outputting from a graphical program, col 4, lines 10-13), wherein each program process has a corresponding graphical program template (template; col 5, lines 11, col 4, lines 14-15), wherein each graphical program template comprises a plurality of interconnected nodes (graphical code portions; col 3, lines 66-67, col 5, lines 1-3); receiving user input selecting a first program process from the plurality of program processes (user selects from a plurality of different types of graphical code portions or templates; col 4, lines 37-41), wherein the first program process has a corresponding first graphical program template; including the first graphical program template in the graphical program in response to the user input (col 5, lines 8-12); wherein said including the first graphical program template in the graphical program comprises programmatically including a plurality of interconnected nodes in the graphical program for performing the first

program process (configured graphical code portion or template is copied into the graphical program; col 5, lines 1-12).

Regarding claims 2 and 22, McDonald teaches for at least a first node that was programmatically included in the graphical program, displaying a graphical user interface (GUI) (configuration panel) associated with the first node (control / object) wherein the GUI comprises information useable in guiding a user in specifying desired functionality for the first node (user indicates a desired functionality by choosing parameters); receiving user input to the GUI specifying desired functionality for the first node; programmatically including graphical source code associated with the first node in the graphical program, wherein the programmatically included graphical source code implements the specified functionality (col 4, lines 42-50).

Regarding claims 3, 11, 23, and 29, McDonald teaches wherein no functionality is set for the first node until after said programmatically including graphical source code associated with the first node in the graphical program (the user select the graphical code portion or template to include in the graphical program prior to selecting parameter indicating desired functionality (col 4, lines 50-54).

Regarding claims 4, 12, 24, and 30, since McDonald teaches graphical code template (col 3, lines 59-67), it is inherent that the default functionality is set for the first node (in the template) and the specified functionality will replace the default functionality.

Regarding claims 5, 13, 25, and 31, in McDonald reference, since user selects desired graphical code portion, program instruction (of the graphical program) will not

Art Unit: 2173

be executed until the procedure to create the graphical program is completed (until after said programmatically including graphical source code associated with the first node in the graphical program).

Regarding claims 6, 14, 26, and 32, McDonald teaches including graphical source code as a sub-program of the graphical program, wherein the first node represents the sub-program (graphical code portion may comprise a portion of a larger graphical program; col 5, lines 18-23).

Regarding claims 7, 15, 27, and 33, McDonald teaches replacing the first node in the graphical program with the programmatically included graphical source code (specifying desired functionality (graphical source code) of the node (control / object) will be implemented in the graphical program)

Regarding claims 8 and 9, McDonald teaches each program process comprises a virtual instrumentation process, wherein each virtual instrumentation process comprises an industrial automation process (col 6, lines 16-18).

Regarding claims 10 and 28, McDonald teaches a method and memory medium for creating a graphical program (col 5, lines 6-12), comprising displaying a plurality of graphical program templates (template; col 5, lines 11), wherein each template comprises a plurality of interconnected nodes (graphical code portions; col 5, lines 1-3); receiving user input specifying a first template from the plurality of graphical to program templates (user selects from a plurality of different types of graphical code portions or templates; col 4, lines 37-41); programmatically including the first template in the graphical program, wherein said programmatically including the first template in the

Art Unit: 2173

graphical program comprises programmatically including the interconnected nodes of the first template in the graphical program (inherent); for at least a first node (control / object) that was programmatically included in the graphical program, performing the following displaying a graphical user interface (GUI) (configuration panel) associated with the first node (control / object), wherein the GUI comprises information useable in guiding a user in specifying desired functionality for the first node (user indicates a desired functionality by choosing parameters); receiving user input to the GUI specifying desired functionality for the first node; programmatically including graphical source code associated with the first node in the graphical program, wherein the programmatically included graphical source code implements the specified functionality (col 4, lines 42-50).

Regarding claims 16 and 34, McDonald teaches receiving user input requesting to specify functionality of the first node (user desires to edit functionality; col 12, lines 60-67) wherein said displaying the graphical user interface (GUI) associated with the first node is performed in response to the user input requesting to specify functionality of the first node (system displays the configuration panel; col 13, lines 1-36).

Regarding claim 17, McDonald teaches wherein each template corresponds to a program process (portion), wherein the plurality of interconnected nodes for each template implement the respective program process (inherent).

Regarding claim 18, McDonald teaches each template corresponds to a virtual instrumentation process, wherein the plurality of interconnected nodes for each template implement the respective virtual instrumentation process (col 9, lines 52-59).

Art Unit: 2173

Regarding claim 19, McDonald teaches each virtual instrumentation process comprises an industrial automation process (col 6, lines 16-18).

Regarding claim 20, McDonald teaches a method for creating a virtual instrument (col 9, lines 52-59) graphical program (col 5, lines 6-12), the method comprising displaying information indicating a plurality of virtual instrumentation processes (configured graphical code portion), wherein each virtual instrumentation process has a corresponding graphical program template (template; col 5, lines 11), wherein each graphical program template comprises a plurality of interconnected nodes (graphical code portions; col 5, lines 1-3); receiving user input selecting a first virtual instrumentation process from the plurality of virtual instrumentation processes (user selects from a plurality of different types of graphical code portions or templates; col 4, lines 37-41), wherein the first virtual instrumentation process has a corresponding first graphical program template; including the first graphical program template in the virtual instrument graphical program in response to the user input (col 5, lines 8-12); wherein said including the first graphical program template in the virtual instrument graphical program comprises including a plurality of interconnected nodes in the virtual instrument graphical program for performing the first virtual instrumentation process (configured graphical code portion or template is copied into the graphical program; col 5, lines 1-12).

3. Applicant's arguments filed 09/24/04 have been fully considered but they are not persuasive.

Applicant's arguments regarding rejections of claims 1, 20-21:

In response to Applicant's argument that "nowhere does McDonald teaches or suggest displaying information indicating a plurality of program processes, wherein each program process has a corresponding graphical program template, wherein each graphical program template comprises a plurality of interconnected nodes", it is noted such is not quite the case. Since the controls in McDonald represent input to or output from a graphical program, a control can be reasonably interpreted as a process (process of inputting to or outputting from a graphical program) (col 4, lines 10-13). McDonald teaches displaying palette of controls (col 4, lines 12-13), each control has a template (col 4, lines 14-15), wherein a template comprises a pre-developed portions of graphical code (col 3, lines 66-67) which comprises of plurality of interconnected nodes (col 16, lines 5-12).

In response to Applicant's argument that McDonald does not teach "receiving user input selecting a first program process from the plurality of program processes, wherein the first program process has a corresponding first graphical program template" it is noted such is not quite the case. Since the controls in McDonald represent input to or output from a graphical program, a control can be reasonably interpreted as a process (process of inputting to or outputting from a graphical program) (col 4, lines 10-13). McDonald teaches user selects a control from a palette of controls (col 4, lines 10-13), each control has a template (col 4, lines 13-14), therefore, the first control has a corresponding first template.

Applicant's arguments regarding rejections of claims 10 and 28:

In response to Applicant's argument that, in McDonald, "the control or object refers to a user interface element" and "[i]n contrast, the "first node" of claim 10 refers to a graphical program node that may be included in a block diagram portion ... For example, page 26, lines 10-11....page 4, lines 3-5....." it is noted that the Applicant's arguments are based on the limitation in the specification. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's argument that McDonald's control or object is not equivalent to node of the instant application, it is noted that page 34, lines 24-45 of the instant applicant teaches graphical code may be associated with the node. McDonald teaches "graphical code portion corresponds to the control (col 4, lines 54-58). Therefore, it is clear that McDonald's control or object is equivalent to node of the instant application.

Therefore, McDonald teaches claims 10 and 28 as presented above.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2173

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu.

The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

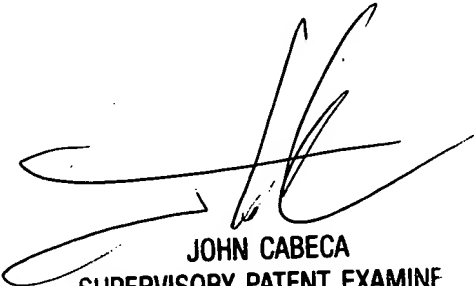
703-872-9306

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu



JOHN CABECA
SUPERVISORY PATENT EXAMINE
TECHNOLOGY CENTER 2100